

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. BUSINESS NETWORK LONG DISTANCE, INC., Respondent.	DOCKET NO. FCU-04-38
--	----------------------

**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued September 10, 2004)

On August 6, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution in C-04-164, involving Business Network Long Distance, Inc. (BNLD), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings, it appears the events to date can be summarized as follows:

On June 23, 2004, Julie Hiatt of CRINC, L.C. (CRINC), Des Moines, Iowa, submitted a complaint to the Board alleging that BNLD changed the long distance carrier for four of CRINC's telephone lines without authorization. Board staff

identified the matter as C-04-164 and, pursuant to Board rules, on June 25, 2004, forwarded the complaint to BNLD for response within ten days.

BNLD responded to the complaint with a letter dated July 1, 2004. BNLD indicated that on April 23, 2004, one of its call centers contacted Monica Durham, CRINC's office manager, regarding long distance service. BNLD stated that Ms. Durham was connected to a third-party verification center and gave her date of birth for verification purposes. BNLD stated that CRINC's account was canceled as of June 30, 2004, and that a full credit was issued in the amount of \$67. BNLD provided a copy of the recording of the third-party verification. Board staff forwarded a copy of the recording to CRINC.

Ms. Hiatt of CRINC listened to the recording and informed Board staff that there is no one named Monica Durham at CRINC. Ms. Hiatt stated that CRINC staff did not recognize the voice on the recording.

On July 26, 2004, Board staff issued a proposed resolution describing these events. Board staff noted that in the recording of the third-party verification, someone named Monica Durham authorized switching CRINC's long distance carrier. Board staff noted that CRINC indicated that no one named Monica Durham works at CRINC and that no one at CRINC recognized the voice on the recording. Staff concluded that slamming had occurred in this case. Staff found that BNLD did not provide acceptable proof of authorization to change the long distance carrier for CRINC because no one at CRINC authorized the change. Staff noted that BNLD provided a full credit of \$67.

In its August 6, 2004, petition, Consumer Advocate asserts that a civil penalty should be imposed against BNLD to deter future slamming violations. Consumer Advocate asserts that BNLD has a history of prior violation. Consumer Advocate requests that the Board docket this complaint for formal proceeding. BNLD has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds there is sufficient information to warrant further investigation into this matter. The Board will delay establishing a procedural schedule and allow BNLD an opportunity to respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on August 6, 2004, is granted. File C-04-164 is docketed for formal proceedings, identified as Docket No. FCU-04-38.

2. Business Network Long Distance, Inc., is directed to file a response to Consumer Advocate's petition on or before October 8, 2004.

UTILITIES BOARD

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 10th day of September, 2004.